

House Engrossed Senate Bill

FILED

**KEN BENNETT
SECRETARY OF STATE**

State of Arizona
Senate
Fiftieth Legislature
First Regular Session
2011

CHAPTER 351

SENATE BILL 1367

AN ACT

AMENDING SECTIONS 8-238 AND 13-610, ARIZONA REVISED STATUTES; RELATING TO
JUVENILE COURT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 8-238, Arizona Revised Statutes, is amended to
3 read:

4 8-238. Advisory hearing; DNA

5 A. If a juvenile is ~~arrested for~~ CHARGED WITH a violation of any of
6 the following offenses and is summoned to appear at an advisory hearing, the
7 judicial officer shall order the juvenile to report within five days to the
8 law enforcement agency that ~~arrested~~ INVESTIGATED the juvenile or to the
9 agency's designee and submit a sufficient sample of buccal cells or other
10 bodily substances for deoxyribonucleic acid testing and extraction:

11 1. An offense listed in title 13, chapter 11.

12 2. A violation of section 13-1402, 13-1403, 13-1404, 13-1405, 13-1406,
13 13-1410, 13-1411 or 13-1417.

14 3. A violation of section 13-1507 or 13-1508.

15 4. A violation of any serious offense as defined in section 13-706
16 that is a dangerous offense as defined in section 13-105.

17 B. If a juvenile does not comply with an order issued pursuant to
18 subsection A of this section, the court shall revoke the juvenile's release.

19 C. THE INVESTIGATING LAW ENFORCEMENT AGENCY OR ITS DESIGNEE SHALL
20 TRANSMIT THE SAMPLE TO THE DEPARTMENT OF PUBLIC SAFETY.

21 D. SECTION 13-610, SUBSECTIONS H, I, J, K, M AND N, ARE APPLICABLE TO
22 SAMPLES COLLECTED PURSUANT TO THIS SECTION.

23 Sec. 2. Section 13-610, Arizona Revised Statutes, is amended to read:

24 13-610. DNA testing

25 A. Within thirty days after a person is sentenced to the state
26 department of corrections or a person who is accepted under the interstate
27 compact for the supervision of parolees and probationers arrives in this
28 state, the state department of corrections shall secure a sufficient sample
29 of blood or other bodily substances for deoxyribonucleic acid testing and
30 extraction from the person if the person was convicted of an offense listed
31 in this section and was sentenced to a term of imprisonment or was convicted
32 of any offense that was committed in another jurisdiction that if committed
33 in this state would be a violation of any offense listed in this section and
34 the person is under the supervision of the state department of corrections.
35 The state department of corrections shall transmit the sample to the
36 department of public safety.

37 B. Within thirty days after a person is placed on probation and
38 sentenced to a term of incarceration in a county jail detention facility or
39 is detained in a county juvenile detention facility, the county detention
40 facility shall secure a sufficient sample of blood or other bodily substances
41 for deoxyribonucleic acid testing and extraction from the person if the
42 person was convicted of or adjudicated delinquent for an offense listed in
43 this section. The county detention facility shall transmit the sample to the
44 department of public safety.

1 C. Within thirty days after a person is convicted and placed on
2 probation without a term of incarceration or adjudicated delinquent and
3 placed on probation, the county probation department shall secure a
4 sufficient sample of blood or other bodily substances for deoxyribonucleic
5 acid testing and extraction from the person if the person was convicted of or
6 adjudicated delinquent for an offense listed in this section. The county
7 probation department shall transmit the sample to the department of public
8 safety.

9 D. Within thirty days after the arrival of a person who is accepted
10 under the interstate compact for the supervision of parolees and probationers
11 and who is under the supervision of a county probation department, the county
12 probation department shall secure a sufficient sample of blood or other
13 bodily substances for deoxyribonucleic acid testing and extraction from the
14 person if the person was convicted of an offense that was committed in
15 another jurisdiction that if committed in this state would be a violation of
16 any offense listed in this section and was sentenced to a term of probation.
17 The county probation department shall transmit the sample to the department
18 of public safety.

19 E. Within thirty days after a juvenile is committed to the department
20 of juvenile corrections, the department of juvenile corrections shall secure
21 a sufficient sample of blood or other bodily substances for deoxyribonucleic
22 acid testing and extraction from the youth if the youth was adjudicated
23 delinquent for an offense listed in this section and was committed to a
24 secure care facility. The department of juvenile corrections shall transmit
25 the sample to the department of public safety.

26 F. Within thirty days after the arrival in this state of a juvenile
27 who is accepted by the department of juvenile corrections pursuant to the
28 interstate compact on juveniles and who was adjudicated for an offense that
29 was committed in another jurisdiction that if committed in this state would
30 be a violation of any offense listed in this section, the compact
31 administrator shall request that the sending state impose as a condition of
32 supervision that the juvenile submit a sufficient sample of blood or other
33 bodily substances for deoxyribonucleic acid testing. If the sending state
34 does not impose that condition, the department of juvenile corrections shall
35 request a sufficient sample of blood or other bodily substances for
36 deoxyribonucleic acid testing within thirty days after the juvenile's arrival
37 in this state. The department of juvenile corrections shall transmit the
38 sample to the department of public safety.

39 G. Notwithstanding subsections A through F, K, L and O of this
40 section, the agency that is responsible for securing a sample pursuant to
41 this section shall not secure the sample if the scientific criminal analysis
42 section of the department of public safety has previously received and is
43 maintaining a sample sufficient for deoxyribonucleic acid testing.

1 H. The department of public safety shall do all of the following:
2 1. Conduct or oversee through mutual agreement an analysis of the
3 samples that it receives pursuant to subsections K, L and O of this section.
4 2. Make and maintain a report of the results of each deoxyribonucleic
5 acid analysis.
6 3. Maintain samples of blood and other bodily substances for at least
7 thirty-five years.
8 I. Any sample and the result of any test that is obtained pursuant to
9 this section OR SECTION 8-238 may be used only as follows:
10 1. For law enforcement identification purposes.
11 2. In a proceeding in a criminal prosecution or juvenile adjudication.
12 3. In a proceeding under title 36, chapter 37.
13 J. If the conviction OR ADJUDICATION of a person who is subject to
14 this section OR SECTION 8-238 is overturned on appeal or postconviction
15 relief and a final mandate has been issued, on petition of the person to the
16 superior court in the county in which the conviction occurred, the court
17 shall order that the person's deoxyribonucleic acid profile resulting from
18 that conviction OR ADJUDICATION be expunged from the Arizona deoxyribonucleic
19 acid identification system established by section 41-2418 unless the person
20 has been convicted OR ADJUDICATED DELINQUENT of another offense that would
21 require the person to submit to deoxyribonucleic acid testing pursuant to
22 this section.
23 K. If a person is arrested for any offense listed in subsection O,
24 paragraph 3 of this section and is transferred by the arresting authority to
25 a state, county or local law enforcement agency or jail, the arresting
26 authority or its designee shall secure a sufficient sample of buccal cells or
27 other bodily substances for deoxyribonucleic acid testing and extraction from
28 the person for the purpose of determining identification characteristics.
29 The arresting authority or its designee shall transmit the sample to the
30 department of public safety.
31 L. A person who is charged with a felony or misdemeanor offense listed
32 in subsection O, paragraph 3 of this section and who is summoned to appear in
33 court for an initial appearance shall report within five days of release on
34 bail or on the person's own recognizance to the law enforcement agency that
35 ~~arrested~~ INVESTIGATED the person or its designee and submit a sufficient
36 sample of buccal cells or other bodily substances for deoxyribonucleic acid
37 testing and extraction. The arresting authority or its designee shall
38 transmit the sample to the department of public safety.
39 M. A person who is subject to subsection K or L of this section OR
40 SECTION 8-238 may petition the superior court in the county in which the
41 arrest occurred or the criminal charge was filed to order that the person's
42 deoxyribonucleic acid profile and sample be expunged from the Arizona
43 deoxyribonucleic acid identification system, unless the person has been
44 arrested ~~or~~, charged with or convicted of OR ADJUDICATED DELINQUENT OF

1 another offense that would require the person to submit to deoxyribonucleic
2 acid testing pursuant to this section, if any of the following applies:

3 1. The criminal charges are not filed within the applicable period
4 prescribed by section 13-107.

5 2. The criminal charges are dismissed.

6 3. The person is acquitted at trial.

7 N. If any sample that is submitted to the department of public safety
8 under this section OR SECTION 8-238 is found to be unacceptable for analysis
9 and use or cannot be used by the department, the department shall require
10 that another sample of blood or other bodily substances be secured pursuant
11 to this section.

12 O. This section applies to persons who are:

13 1. Convicted of any felony offense.

14 2. Adjudicated delinquent for any of the following offenses:

15 (a) A violation or an attempt to violate any offense in chapter 11 of
16 this title, any felony offense in chapter 14 or 35.1 of this title or section
17 13-1507, 13-1508 or 13-3608.

18 (b) Any offense for which a person is required to register pursuant to
19 section 13-3821.

20 (c) A violation of any felony offense in chapter 34 of this title that
21 may be prosecuted pursuant to section 13-501, subsection B, paragraph 2.

22 (d) A violation of any felony offense that is listed in section
23 13-501.

24 3. Arrested for a violation of any offense in chapter 11 of this
25 title, a violation of section 13-1402, 13-1403, 13-1404, 13-1405, 13-1406,
26 13-1410, 13-1411, 13-1417, 13-1507, 13-1508, 13-3208, 13-3214, 13-3555 or
27 13-3608 or a violation of any serious offense as defined in section 13-706
28 that is a dangerous offense.

29 Sec. 3. Intent

30 It is the intent of the legislature to clarify that samples that are
31 collected pursuant to section 8-238, Arizona Revised Statutes, shall be
32 collected, analyzed, used, maintained and expunged in the same manner as
33 samples collected pursuant to section 13-610, Arizona Revised Statutes.

APPROVED BY THE GOVERNOR APRIL 29, 2011.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 29, 2011.

Passed the House April 14, 20 11,

by the following vote: 55 Ayes,

1 Nays, 4 Not Voting

[Signature]
Speaker of the House

Cheryl Laube
Chief Clerk of the House

Passed the Senate March 9, 20 11,

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

[Signature]
President of the Senate

Charmine Bellington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

 day of , 20 ,

at o'clock M.

Secretary to the Governor

Approved this day of

 , 20 ,

at o'clock M.

Governor of Arizona

S.B. 1367

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this day of , 20 ,

at o'clock M.

Secretary of State

SENATE CONCURS IN HOUSE
AMENDMENTS AND FINAL PASSAGE

Passed the Senate April 18, 20 11

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

[Signature]
President of the Senate

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

14 day of April, 20 11

at 2:45 o'clock P. M.

[Signature]
Secretary to the Governor

Approved this 29th day of

April

at 2:20 o'clock P. M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 29th day of April, 20 11

S.B. 1367

at 7:30 o'clock P. M.

[Signature]
Secretary of State